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THE INCOME TAX IN GEORGIA¹

The widespread interest in tax reform which has arisen in recent years has led to an active study of the problems and perplexities of taxation. In one respect, at least, inquiry has been fruitful. The iniquities of the general property tax have been visited with the unanimous condemnation of theorists and administrators alike. Unfortunately the same unanimity has not been reached in regard to the system to be substituted; but many believe that some form or modification of the income tax will constitute an essential part of the state system of the future. It becomes of interest therefore to investigate the experience of the several commonwealths in regard to this form of taxation.

It is not very generally known that Georgia during two years of the Civil War levied an income tax with results that are interesting and in some respects unique. The tax was fairly successful; it involved the principles of progression, limitation, and exemption; and it was complicated by the rapidly rising prices of a period of inflation. The present paper is the result of an attempt to bring together the essentials of all extant information in regard to this subject.

Several of the southern states taxed incomes before the Civil War. Alabama, South Carolina, North Carolina, and Virginia extended the income tax during the first years of that period. Texas and Georgia imposed it for the first time in 1863. In Georgia the demand for an increased revenue and the general conviction that certain classes making large profits were escaping their due share of taxation led to the introduction of the tax on profits.² The Civil War necessitated an increase in the amount of the state tax, and the inflation of the currency and the general speculation of the period gave rise to a prevalent feeling that

¹ D. O. Kinsman, *The Income Tax in the Commonwealths of the United States* ("Amer. Econ. Assoc. Publications," 3d series, IV, 1903), includes an excellent but necessarily brief treatment of this subject.

² *House Journal* (1863), 245-47, 274; *Laws of Georgia* (1863), 110; *Senate Journal* (1863), 55.

traders and speculators should be taxed. In speaking of the first income tax the comptroller-general says:

As the traders and speculators in these common necessities of life had not only made large profits upon their neighbors at home, but also upon the soldiers, and their families at home, the Legislature provided that the tax raised from this source should be distributed among the families of indigent soldiers.³

A resolution of the General Assembly passed in December, 1863, says that since a state of war enriches some while it impoverishes others, and since it is an object of legislation to equalize these differences, a committee should consider the whole subject of taxation and report a bill creating a system of taxes based mainly on net income realized during the war.⁴ During the same session twenty-five members of the House declared:

We believe it is right for those who, by the exigencies of the war, have been enabled by speculation, by government contracts, extortion and otherwise to make extraordinary incomes, amounting in some instances to huge fortunes of themselves, to pay liberally towards the support of government. They ought at least to approximate bearing their share of the public burdens.⁵

And a protest against the 1 per cent. *ad valorem* tax made December 7, 1863, declares:

Its effect will be to . . . place the property of those who are . . . defending us . . . at the hands of the speculators and extortioners who have remained at home and accumulated fortunes.⁶

It should be noted in advance that the period during which the income tax laws were in operation in Georgia was a period of rapidly depreciating currency; and the increase of prices due to inflation was reckoned as profits in the intent of the law. Of course there was a real rise in the prices of the necessities of life due to the limited supply; but on the whole the apparent profits due to inflation considerably exceeded actual profits.

³ *Comptroller-General's Report* (1863), 29.

⁴ *Laws of Georgia* (1863), 110; *Senate Journal* (1863), 245.

⁵ *House Journal* (1863), 245-47.

⁶ *Ibid.*, 245.

The table below shows the average monthly value, in currency, of one gold dollar.⁷

TABLE I
AVERAGE MONTHLY VALUE, IN CURRENCY, OF ONE GOLD DOLLAR

1861	1862	1863	1864	1865
January 1	January 1.2	January 3	January 21	January 53
February 1	February 1.2	February 3.3	February 23	February 58
March 1	March 1.3	March 4.1	March 22	March 61
April 1	April 1.5	April 4.5	April 21	
May 1	May 1.5	May 5.2	May 19	
June 1	June 1.5	June 7	June 17	
July 1.1	July 1.5	July 9	July 20	
August 1.1	August 1.5	August 12	August 22	
September 1.1	September 2	September 12	September 23	
October 1.1	October 2	October 13	October 26	
November 1.2	November 2.9	November 15	November 30	
December 1.2	December 2.9	December 20	December 38	

From the table it may be seen that there was a rapid inflation of the Confederate currency during the two years in which profits were taxed, from April, 1862, to April, 1864. Property purchased in April, 1862, and sold in April, 1863—the period affected by the first law—would have yielded 200 per cent. of apparent profits. Property held from April, 1863, to April, 1864—the period yielding profits under the second law—would have shown an increase in price, as a result of currency inflation, of 366 per cent.

The first law was passed April 18, 1863. It required all persons and bodies corporate engaged in the sale of goods, wares, merchandise, groceries, or provisions; in the manufacture and sale of cotton or woolen goods;⁸ in the tanning and sale of leather; in the manufacture and sale of leather goods; in the distillation and sale of spirituous liquors, to make returns under oath of the net income or profits received from April 1, 1862, to April 1, 1863.⁹ If the amount of the profits received for the

⁷ J. C. Schwab, *The Confederate States of America*, 167. See, also, Appendix I of that work, and *Pol. Sc. Quart.*, XIV, 281 (June, 1899).

⁸ It is remarkable that cotton and woolen goods should be especially designated while at the same time the legislature was subsidizing cotton and wool mills (*Laws of Georgia*, 1862, Act 3, p. 8).

⁹ *Ibid.*, 1863, extra session, Act 166, sec. 1.

"year preceding the return" should equal 20 per cent. of the capital invested, a tax of one-half of 1 per cent. was to be levied; if it should be between 20 and 30 per cent., the rate was to be 1½ per cent.; and for every increase of 10 per cent. in profits, the rate was to be increased by one-half of 1 per cent., *ad infinitum*.¹⁰ If the amount of the profits should equal 100 per cent. of the capital, the rate was to be 5 per cent.; if 1,000 per cent., it was to be 50 per cent.; and if 2,000 per cent., the entire profits would go for tax. Those who should fail or refuse to return profits subject to the law were to be held to have made \$100,000, and were to be taxed accordingly.¹¹ If returns should be suspected to be false or fraudulent, assessors were to be appointed, and if the taxpayer should refuse to produce his books, he was to be held to have made \$100,000 at the rate of 1,000 per cent., and was to be taxed accordingly. If fraud should be found, when the books were produced, double taxation was to be the penalty.¹² For failure or refusal to pay the tax assessed, the penalty was to be double taxation.¹³ Farmers who sold their own agricultural productions were to be exempt.¹⁴ The tax of 1863 was to be devoted to the aid of indigent widows and orphans of soldiers, to indigent families of soldiers in service, and to disabled soldiers. It was to be paid into the treasury by the 15th of December.¹⁵ A bill of the same scope and purpose had failed to pass the House in the preceding November.¹⁶

1. The first point that arrests attention is the scope. The law names only certain traders and manufacturers. In the House, Mr. Schley of Richmond (the county most heavily burdened by the tax) moved to amend by taxing all net income of all taxpayers, but the motion was lost.¹⁷ The Senate agreed to the section limiting the scope after the failure of a motion to add "live stock, and all banks, railroad and insurance companies, all brokers and money lenders, and all other companies and corpora-

¹⁰ *Ibid.*, sec. 2.¹² *Ibid.*, sec. 4.¹⁴ *Ibid.*, sec. 6.¹¹ *Ibid.*, sec. 3.¹³ *Ibid.*, sec. 5.¹⁵ *Ibid.*, sec. 7.¹⁶ *House Journal* (1862), 55-56, 59-60, 236.¹⁷ *Ibid.*, extra session (1863), 212.

tions doing business for profit and gain.”¹⁸ The restriction of the tax to certain traders and manufacturers who were known to be making large profits, and the further restriction to net profits of 20 per cent. and above, indicates that the tax was aimed at excessive profits.

2. Another point to be emphasized is that the taxpayer (person or corporation) made his own returns under oath.

3. The third and characteristic feature of the law is that it was levied on net income of the preceding year. During the next session the House defined “net income” as “income derived from any business after all legitimate expenses have been paid.”¹⁹ It is worthy of note that profits were taxed regardless of the time of the purchase of property. But as only merchants, traders, and manufacturers were taxed, the time of purchase was not so important as it was under the second law which taxed profits made by sale of any property. During the annual session of 1863 it was proposed to exempt profits on property bought prior to April 1, 1862, but the motion was lost;²⁰ and all excess of receipts over cost, even in the depreciated currency of the day and without regard to the time of purchase, was considered profits by the comptroller-general.²¹

4. The fourth point to be noted is the exemption. Instead of an amount-exemption, as was provided in the national and most state laws of the time, the Georgia law of 1863 provided for the exemption of net profits made at a rate less than 20 per cent.²² But if the profits above “all legitimate expenses” equaled 20 per cent. of the capital, the tax was levied on the entire amount.

5. The provision in regard to progression is, in its results, the most interesting of all. The rate, graduated according to the rate of the profits, from one-half of 1 per cent. to an unlimited amount, looked harmless enough when the law was passed, but grew burdensome as prices went skyward in the con-

¹⁸ *Senate Journal*, extra session (1863), 171.

¹⁹ *House Journal* (1863), 272.

²⁰ *Ibid.*

²¹ *Report of the Comptroller-General*, 29-30.

²² *House Journal* (1863), 272.

stantly depreciating currency. Beginning at one-half of 1 per cent., if the profits equaled exactly 20 per cent. of the capital, it was 1½ per cent., provided the profits were between 20 and 30 per cent.; while in all other graduations there was a regular increase of one-half of 1 per cent. for every increase of 10 per cent. in the rate of profits. This irregularity in the rate is hard to account for. Perhaps it was to bring the rate up to 5 per cent. on profits made at the rate of 100 per cent. In practice perhaps no one paid the one-half of 1 per cent. for if exactly 20 per cent. was made, a very small increase in the valuation of property would reduce the ratio of profits, and if they should be reduced by any amount the entire profits would go free.

The following letter from Governor Brown to the comptroller-general shows some results of the progression, and explains the complications that arose from the penalty for the refusal to make returns.

I am informed that some wealthy individuals and corporations, who have made very large profits refuse to give in their tax returns under the Income Tax Act as they are of the opinion that the penalty fixed by law for such refusal, is less than the tax due under the act; while others with less capital, are obliged to give in and pay the tax on all they have made, as they are not able to pay the penalty for refusing to make their returns. It is generally understood that the penalty is \$5,000. This depends upon the proper construction of the third section of the act, which declares: "If any person, or body corporate, shall fail to make a return of his profits he shall be held to have made the sum of \$100,000, and shall be taxed accordingly." The defect in this section is, that it does not say at *what per cent.* he shall be held to have made the \$100,000. If at 100 per cent., then the penalty is \$5,000. But if at 1,000 per cent., it is \$50,000.

Upon a careful review of the whole statute, I adopt the latter construction, and hold that this is the penalty or tax assessed for refusal to make a return.

In the fourth section, it is provided that a person, or body corporate, charged with having made a false return, and refusing to produce his books of entry shall be held to have made 1,000 per cent. upon \$100,000²³ (*sic*). Construing the two sections together, I think it a fair conclusion, that the percentage which a person refusing to make a return

²³ *Laws of Georgia*, extra session, 1863, Act 166, sec. 4.

shall be presumed to have made was intended to be as large as that which a person refusing to produce his books . . . is presumed to have realized . . .

You are therefore directed to order the tax collectors . . . to assess and collect a tax of \$50,000 from each person, or body corporate . . . who shall fail . . . to make a return of his profits.²⁴

I am also informed that some persons in the state, who commenced with very small capital, have made several thousand per cent. during the year, and as the whole amount made by such person will not pay his tax, if his profits exceed 2,000 per cent., and as I cannot suppose that it was the intention of the legislature, to take all a person made for tax, much less bring him in debt²⁵—as authorized by the 76th section of the Code—I direct you to order the collectors . . . in all cases, where the tax exceeds one-half of all the net profits a person or body corporate has made, to collect one-half of the whole amount made by each person as tax, and suspend the collection of the balance . . . till the meeting of the Legislature.²⁶

Of the 132 counties, 14 made no returns of income. The 7 counties tabulated below returned two-thirds of the tax; while the remaining 125 counties returned only one-third.²⁷

The order of the arrangement of the counties in Table II is that of the amount of the tax. It is interesting to compare this order with that of the amount of the capital and of the profits. Decatur County, for example, ranks fourth in amount of tax, but seventh in amount of capital and profits. Yet while this county returned profits scarcely more than one-fourth the amount of the least of the other six counties, it returned a tax greater

²⁴ In his report of 1863 (pp. 34-35) the comptroller-general says: "There are four default cases, . . . and under the construction placed upon the third and fourth sections of the act by your Excellency, each defaulter has been charged \$50,000 for being in default. Whether the parties have enough visible property to pay the default taxes, or whether it can or cannot be collected, I am not prepared to say."

²⁵ The following news item was printed in the *Macon Telegraph* for June, 1863: "*Tight Papers—Income Tax.* We are informed that a brewer in this city, who gave in his investment at \$50 and his income for the year at \$1,500, being 3,000 per cent. upon his investment, was quietly informed by the receiver that under the income tax law . . . , he was due \$2,225. 'But mein Gott, I no got him. I give you all the monish I've got.' 'Very well,' says Mr. Receiver, 'I will have to take your note and security for the balance'" (*Southern Watchman*, June 17, 1863, county clerk's office, Athens, Georgia).

²⁶ *Southern Watchman*, July 1, 1863, p. 1.

²⁷ *Report of the Comptroller-General* (1863), 31-34.

than the entire profits and equal to one-half of the sum of both the capital and the profits. Fulton ranks second in amount of tax, but fifth in amount of capital and of profits. Bibb ranks third in amount of capital and of profits, but takes last place in amount of tax. To the unlimited progression of the tax and the narrow scope of the law, combined with tax dodging, is due the injustice in operation.

TABLE II
RETURNS OF THE TAX ON PROFITS UNDER THE FIRST LAW, BY COUNTIES

Counties	Capital	Profits	Tax
Richmond.....	\$ 8,433,175	\$ 3,149,460	\$123,876
Fulton.....	1,807,800	991,455	81,280
Muscogee.....	6,550,938	2,426,965	59,213
Decatur.....	68,392	33,063	51,224
Clinch.....	89,881	127,357	50,598
Chatham.....	2,870,423	1,234,328	48,412
Bibb.....	3,297,581	1,388,402	40,174
Seven counties.....	23,118,190	9,351,030	454,777
All counties.....	36,441,084	15,737,479	683,235

The total profits are equal to 43 per cent. of the capital.

From an examination of several tax digests it was learned that in only a very few of the militia districts, even in the counties which paid most largely, were any returns made for income tax. The factory centers and large trading towns paid the bulk of the tax, and the bulk of the tax paid in these centers came from a few large factories and traders.

Following are the items of taxation for the fiscal year 1863.²⁸

TABLE III
TAXATION IN GEORGIA, BY ITEMS, FOR THE FISCAL YEAR 1863

Sources	Value in Currency	Value in Gold
General property tax.....	\$1,614,902*	\$92,280*
Income tax.....	580,835*	33,190*
Tax on banks.....	65,331	3,733
Tax on railroads.....	12,182	696
Tax on insurance companies.....	3,189	182
Tax on bank agencies.....	301	17
Tax on express companies.....	686	39

* These items are the amounts for the political year. From the report of the comptroller-general it is impossible to learn the amount of the income tax for the fiscal year 1864, the only full fiscal year that it was collected; and the treasurer's reports have been destroyed.

²⁸ *Ibid.*

It will be noted that the amount of the income tax was slightly more than one-third that of the general property tax and roughly one-fifth that of the total tax from all sources.

In estimating the effectiveness and desirability of the income tax, the comptroller-general says:

Had there been no "misunderstanding" of the law, no dodging it or no fraudulent returns made by parties subject to its provisions, I am inclined to the opinion that the tax raised under it would have amounted to \$1,500,000 or \$2,000,000. But such has been the misunderstanding of its provisions, or erroneous or fraudulent returns made under it, I doubt much if the tax will net more than \$500,000.

Plain as the main principle of the act seems to be, I have every reason to believe that either from a misunderstanding of the law, or to avoid a large tax, many persons have failed to make their returns in accordance with the requirements of the Act. Instead of returning only the original capital . . . they include . . . reinvestments of profits during the year, as Capital.

He then cites a factory whose owner returned the capital at \$25,908 when making returns for the general property tax, and the profits at \$70,000; but when he made returns for the income tax, he returned the capital at \$118,238, showing profits of 59 per cent. instead of over 270 per cent., and reduced the tax from \$9,800 to \$2,100. After other similar instances he continues:

It will be seen that in these three cases, the return of capital in 1863, as having been employed from April, 1862, to April, 1863, is *more* than the original capital returned on the tax books in 1862, *and the profits all put together!* This is rather remarkable, considering that we had a blockade nearly all the time, and that even had the factories needed and desired a double or treble supply of machinery, etc., they could not have purchased it. But these strange returns are not confined to factories alone—merchants, traders, grocers, etc., return on the general state tax book for 1863 double the amount of capital they returned in 1862, and yet they pay no income tax at all, while others again, whose returns this year are double and treble what they were last year, by some hocus pocus unknown to me, pay but little income tax.²⁹

As a result of the year's experience, the General Assembly passed in December, 1863, a new income tax law. This required

²⁹ *Report of the Comptroller-General (1863), 29-30.*

all persons and bodies corporate making income by purchase or sale of *any* property; all keepers of hotels, inns, and livery stables; all express companies, railways, insurance companies, brokers, auctioneers; all persons and bodies corporate *named in the first law*, to return under oath all net income above 8 per cent. on the capital, received from April 1, 1863, to April 1, 1864.³⁰ If the amount of the net income above 8 per cent. of the capital should not exceed \$10,000, it was to be taxed 5 per cent.; if it should be between \$10,000 and \$15,000, 7½ per cent.; if between \$15,000 and \$20,000, 10 per cent.; if between \$20,000 and \$30,000, 12½ per cent.; if between \$30,000 and \$50,000, 15 per cent.; if between \$50,000 and \$75,000, 17½ per cent.; if between \$75,000 and \$100,000, 20 per cent.; and if more than \$100,000, 25 per cent.³¹

The penalty for failure to make returns was to be double taxation and confinement at hard labor for not less than one year or more than five.³² For fraud in returns by officers of any corporation, the penalty was to be double taxation, and from two to six years at hard labor.³³ The final section of this act declared:

It shall be the duty of the several Tax-Receiver of this State, to prosecute all parties who shall fail, refuse, or neglect to give in their tax, . . . or who they may have good reason to believe have not done so in good faith.³⁴

Several changes in the tax as provided by the second law are significant.

It embraces a much larger field of profits than the act of the previous April. While it was not a general income tax, it covered a large part of all profits of 8 per cent., and above. There was much misunderstanding of the scope, and evasion was more general than in 1863. The comptroller-general says:

Notwithstanding the language of the Income Tax Act . . . is broad and clear enough to include "*all persons*" who had made "*incomes by purchase or sale of any property real or personal*" . . . , yet it is evident from the following table of the counties and their returns,³⁵ that *not half*

³⁰ *Laws of Georgia* (1863), Act 75, sec. 1.

³¹ *Ibid.*, sec. 2.

³² *Ibid.*, sec. 3.

³³ *Ibid.*, sec. 4.

³⁴ *Ibid.*, sec. 5.

³⁵ See Table IV below.

of those who had no doubt made incomes by sale of property, have made any returns whatever.

He gives figures to show that fifteen counties returned more than 90 per cent. of the total tax, and continues:

It is but fair to say that most of it comes from factories and a few large traders. That the owners of factories and a few large traders if they make large profits should pay a good tax may be all very correct, but it is not fair that thousands of others who sell land, real estate, cotton, corn, provisions, . . . etc., and who make profits equal (for the amount invested) to these factories and traders, should make no returns at all. Take for instance the wealthy county of Columbia, with seven hundred and twenty-nine property taxpayers. She only returns four persons as having made *profits* by the *sale* of property over and above 8 per cent. *on its value on the 1st of April, 1863*, and these profits only amount to \$10,700. Taking into consideration the way land and other property went up between April, 1863, and April, 1864, the sale of only one plantation of one thousand or one thousand five hundred acres ought to have produced more profits than the whole amount returned. But is it reasonable to suppose that no more than four persons in the county of Columbia made profits . . . specified? Is it not more reasonable to suppose that 150 persons made such profits. . . ?

Having cited similar conditions in other counties, he concludes as follows:

Reference is had to these counties because they are all purely Agricultural counties, and they are here grouped together and compared, that your Excellency and the Legislature may see how differently this Income Tax Act has been construed and acted upon in the different counties—and that you may further see that so far from one-half of the persons liable to pay an income tax making a return, it is questionable if one-fifth have made their returns. It is true all of the factories (except those in the enemy's lines) have been returned, and most of the large dealers or traders in merchandise . . . in the counties have been returned, but I regret to say, that I think there are thousands . . . that have made no returns. And why is this the case? I am sorry to say, that, in some of the counties, I have been informed, members of the Legislature have told their constituents that the Income Tax Act did not tax the farmer or planter who bought and sold plantations, or other persons who were not in the habit of buying and selling property but it only taxed the general trader or speculator or those who bought and sold certain property for the purpose of speculation. . . .³⁶

³⁶ *Report of the Comptroller-General* (1864), 30-31.

To make the law clearer on this point, he suggested that farmers, and others who did not make a business of trading should be named in the act, or that the law should be made general.³⁷ In November, 1864, however, the legislature passed the following act:

(No. 10)

An act declaratory of the true intent and meaning of an act, entitled An act to levy and collect a tax on net incomes and profits, assented to 14th Dec., 1863.

1. SECTION 1. Be it enacted, &c., That the true intent and meaning of the above recited act, was to levy and collect a tax on the net incomes and profits made in the purchase and sale of real and personal property; and that the Comptroller General is hereby directed to remit all taxes which have been assessed or collected, when satisfactory proof shall be made to the Comptroller General, that said tax has been assessed and collected contrary to this act.³⁸

1. This interpretation seems to be virtually a new law, and to require the comptroller-general to remit all taxes on the ordinary profits of inns, livery-stables, express companies, railways, and insurance companies. The ordinary profits of these interests were not made by "purchase and sale of real or personal property." Yet this interpretation of the law seems a paradox. How could the legislature declare that "the true intent and meaning" of the previous act was *not* what it expressly stated it *was*? The interests freed from the tax by this act must have contributed a considerable part of the returns of 1864, but perhaps few had paid the tax before the interpretation was made by the legislature. In the disbursements for the fiscal year 1865 there is only \$312 charged to "over-payments."³⁹ It is worthy of note that railways, insurance companies, and express companies were taxed by the general property tax, by the special corporation tax, and, before it was interpreted, by the income tax. The triple taxation was probably the strong point for exemption of all income that was not made by sale of property.

2. The second change that engages attention is the lowering of the exemption from 20 to 8 per cent. This reduction in the

³⁷ *Ibid.*, 36.

³⁸ *Laws of Georgia* (1864), Act 10, sec. 1.

³⁹ *Report of the Comptroller-General* (1865), 8.

rate and the depreciating currency both tended to nullify the exemption. In order to understand the conditions, the change in currency prices during the year should be observed. The amount of capital for the income tax was estimated for April 1, 1863, when \$1 in gold was worth \$4.50 in currency; and if the same property was sold between the following December and April it brought from \$20 to \$23 for every gold dollar of its returned value, or more than four times what it was returned for in currency.⁴⁰ From these figures it is apparent that if the taxpayers had followed the instructions of the comptroller-general, who considered all increase in currency to be profits, the exemption would not have applied to any profits. For if they equaled or exceeded 8 per cent., the tax fell on the entire income.

3. The third change is an important one. The rate of graduation is based on the amount of the profits and not on the rate as in the first law. And yet there was no amount-exemption. If a man made \$5 of profits and made that amount at a rate of more than 8 per cent., 5 per cent. of it was due as tax. The rate beginning at 5 per cent. instead of $\frac{1}{2}$ per cent., as in the first law, and progressing rather rapidly until 25 per cent. was reached, did not pass this rate; whereas the first tax took the entire income if it was made at the rate of 2,000 per cent. But on all profits made at a rate less than 100 per cent. the second law levied a heavier tax.

4. The fourth change is in the penalties prescribed. The experience of the previous year with the heavy fine as a penalty for not returning the tax caused a change to that of confinement at hard labor,⁴¹ and the receiver was required to prosecute delinquents. With regard to the penalties and prosecution, the comptroller-general suggests:

That the clause in the act for this year, making a failure to return, a penitentiary offense, be repealed—for it only weakens the force of the act. No tax receiver will attempt to send a man to the penitentiary because he has failed to make his tax returns; and as it becomes his duty to prosecute a person, who is found in default, many receivers will not

⁴⁰ See Table I, above.

⁴¹ *Laws of Georgia* (1863), Act 75, sec. 5.

return a man in default, but will let him go "scot free" rather than prosecute and attempt to send him to the penitentiary for not making his returns.⁴²

Of the 132 counties, 19 were within the federal lines, and 5 made returns too late to be included in the report. Of the 108 counties that made returns in time to be included in the comptroller's report, only one failed to return income tax; whereas 14 had returned none in the previous year. The more nearly general return was due to the lower exemption and the wider scope of the law.

Only 5.3 per cent. of the tax payers of the state returned income tax. The five counties listed in the following table

TABLE IV
RETURNS OF THE TAX ON PROFITS UNDER THE SECOND LAW, BY COUNTIES

Counties	Property Taxpayers	Income Taxpayers	Profits above 8 per cent.	Tax on Profits
Richmond.....	2,054	190	\$ 5,270,041	\$954,496
Muscogee.....	1,382	104	2,632,896	370,623
Fulton.....	1,761	274	2,840,115	316,907
Chatham.....	1,595	163	1,690,000	254,670
Bibb.....	1,536	120	1,977,103	248,474
Five counties.....	8,328	851	14,410,155	2,145,170
All counties.....	69,712	3,758	22,247,092	3,195,217

TABLE V
TAXATION IN GEORGIA, BY ITEMS, FOR THE FISCAL YEAR 1864

Source	Assessed Values	Amount of Tax
General property and income taxes.....	\$14,783,064*	\$434,796*
Tax on banks.....	302,004	8,882
Tax on railroads.....	14,348	422
Tax on insurance companies.....	8,635	253
Tax on bank agencies.....	506	14

* This item is the amount for the political year.

returned more than two-thirds of the tax, and only 10 per cent. of the taxpayers of those five counties returned any income tax. In other words, 10 per cent. of the taxpayers of five counties returned more than two-thirds of the income tax of the state.⁴³

⁴² *Report of the Comptroller-General* (1864), 36.

⁴³ *Report of the Comptroller-General* (1864).

How much of the returns of 1864 were paid has not been learned. The comptroller-general in his report does not separate the income tax from the general property tax, and the reports of the treasurer have been destroyed. It is probable that some considerable part of the returns were canceled by the act interpreting the law. The returns approximated roughly \$90,000 in gold value compared with some \$38,000 for the returns of the first law. The increase was due to the lower exemption and higher tax rates on the lower rates of profits.

In concluding his report concerning this law, the comptroller-general says:

I am free to confess that . . . I have felt satisfied that there has been so much fraud and hard swearing, or to say the least of it, so many different opinions relative to income tax returns, I have but little partiality for the system. So far as my observation extends, only a few whose business was such they could not hide, if they would, have paid most of this tax. The factories, the regular business man, or trader, and now and then an unsophisticated honest man, not a regular trader, pays the tax, but the real sharper, or monopolizer, and speculator who does no regular business, but buys up produce, etc., and holds it up for high prices, gets off by dodging the receiver, or by claiming to have made no profits above eight per cent. Under all these circumstances, then, I think all taxes would be much more equitably levied if placed entirely upon the *ad valorem* system. If, however, the Legislature should deem it best to continue to raise revenue from incomes or profits, I would suggest that it . . . enact more perfect laws than those of 1863 and 1864.⁴⁴

Though, in November, 1864, the legislature had interpreted the second law in a way that narrowed its scope, in the following April a bill was passed to levy the tax a third time on a still wider field of profits than the second law had included. The third law taxed profits made by persons engaged in agriculture, in milling, in manufacture of sugar, syrup, and wooden ware, and all coopers and cotton dealers, in addition to all profits taxed by the law of 1864.⁴⁵ The tax was to be collected on income from April 1, 1864, to April 1, 1865; but on account of the break-up of the state government, no returns were made for the

⁴⁴ *Report of the Comptroller-General* (1864), 36.

⁴⁵ *Laws of Georgia* (1865), extra session, Act 54, sec. 1.

political year 1865.⁴⁶ The exemption was raised from 8 to 10 per cent., but the rate remained the same. The penalty for failure to make returns was to be \$500,000,⁴⁷ and that for fraudulent returns fourfold taxation.⁴⁸ The law is of value only as reflecting the views of the legislature, and through it the will of the majority of the people.

It may not be amiss to consider the conclusions of Mr. Kinsman. He says:

The tax appears to have given better satisfaction in Georgia than in any other state. As a source of revenue it was most successful; in 1863, the year the tax was introduced, for instance, incomes were assessed to the amount of \$15,737,479 and the tax yielded \$683,235. This, together with the fact that no question under the law was ever carried into the courts, points to the conclusion that the object for which it was levied appealed to the loyalty of the citizens and led to the unprecedented success of the law.⁴⁹

1. In regard to the general satisfaction with the law, it should be remembered that the tax was borne by a very small proportion of the total number of taxpayers, and that the minority in the legislature filed strong protests against the tax. Fifteen members of the House offered a protest against an income tax bill in December, 1863, stating the following reasons:

1st. Because it is wrong in principle, retroactive in its operations, and injurious in its results.

2d. Because it fails in the objects contemplated. The design of the friends of this bill is to tax traders and speculators, and it fails in this, that it operates wholly upon those who are consumers, for, in order to meet the burden of the tax imposed, producers and traders will, of necessity, advance the prices of their productions and speculations, which advance must be paid by consumers exclusively, who are generally those least able to bear the heavy burdens of taxation.⁵⁰

3d. Because the tax imposed is burdensome and oppressive.

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⁴⁶ *Report of the Comptroller-General* (1865), 5, 7.

⁴⁷ *Laws of Georgia* (1865), extra session, Act 54, sec. 3.

⁴⁸ *Ibid.*, secs. 4-5.

⁴⁹ D. O. Kinsman, *The Income Tax in the Commonwealths of the United States* ("Amer. Econ. Assoc. Publications," 3d series, IV, 1903).

⁵⁰ The incidence of this tax is an inviting field for study.

4th. Because it is impolitic in the government to attempt a regulation of trade by legislation.⁵¹

It was not, perhaps, because the few who paid the tax were willing to do so that they did it, but because they could not make themselves heard in the legislature. Yet patriotism did perhaps play a part in taxation in Georgia as it did in the North where the people accepted the Civil War tax without complaining.⁵²

2. In regard to the success of the law as a source of revenue, the depreciation of the currency should be considered. The amount given by Mr. Kinsman (\$683,235) is that of the returns, and not that of the receipts. The net tax was \$580,835 in currency, and was equal to about \$33,190 in gold,⁵³ one-twentieth less the amount given by Mr. Kinsman.

3. The main reason that no case was ever carried to the courts is perhaps that it was known that the courts would give no decision that would weaken the financial support of the state at that time. As for corporations, the largest taxpayers, they dared not become defaulters on penalty of forfeiting their charters.⁵⁴

4. In regard to the object to which the tax was devoted, it may be stated that the legislature had appropriated \$2,500,000 for an indigent soldiers' family fund at the session preceding the one that passed the first income tax law,⁵⁵ but that the tax of the second and third years was not to be devoted to any specific purpose. This would seem to indicate that the object to which the tax was devoted was of secondary importance in the minds of the legislators at least.

To sum up, the tax was on profits only. It never embraced interest. At first limited to a very narrow scope, it was extended in the later laws. It embraced only net profits at a period when the national income tax and the income tax in other states was, in part or exclusively, on gross income. The exemption of profits below 20 per cent. under the first law was reduced to an exemp-

⁵¹ *House Journal*, 1863, p. 274.

⁵² *Quart. Journal of Econ.*, p. 451 (1894).

⁵³ See Table II.

⁵⁴ *Code of 1861*, secs. 800, 801; Report of the Comptroller-General (1864), 38.

⁵⁵ *Laws of Georgia* (1862), Act 5, sec. 13.

tion of profits below 8 per cent. under the second. There was never an amount-exemption. Here too is seen a contrast with the national tax as well as with other state taxes of the time. The profits from the sale of any property specified were taxed without regard to the time of the purchase, while the national law taxed only profits from property purchased within two years. The rate was at first based on the rate of the profits, but in the second and third laws it was graduated according to the amount of the profits. The progression, unlimited in the first law, was limited to 25 per cent. in the last two. For the two years that the tax was collected it yielded about one-fifth of the total tax. Yet in the second year, when the scope was widely extended, the tax was paid by only 5.3 per cent. of the taxpayers; and the comptroller-general came to the conclusion that it was less equitable than the *ad valorem* tax.

BIBLIOGRAPHICAL NOTE

Following are references on the subject treated in this article.

Laws of Georgia, 1863-66.

House and Senate Journals, 1862-66.

Reports of the Comptroller-General, 1862, 1863, 1864, and 1865. Contain tables of the returns, of the receipts and disbursements at the treasury, and suggestions by the comptroller-general.

The Tax Digests of the several counties. Show how few districts in the counties returned the income tax.

Southern Watchman, July 1, 1863 (filed in the office of the clerk of the court of Clarke County, Athens, Ga.). Gives the governor's interpretation of secs. 3 and 4 of the first law.

D. O. Kinsman, *The Income Tax in the Commonwealths of the United States*. An excellent treatment of the experience of the several states in collecting the income tax (128 pages) ("Amer. Econ. Assoc. Publications," 3d series, IV, 1903).

J. C. Schwab, *The Confederate States of America*. A scholarly exposition of the currency, the prices, and the industrial conditions of the period. *Pol. Sc. Quart.*, XIV, 281 (June, 1899). Contains a table and a discussion of prices.

Quart. Journal of Econ., VIII, 416-52 (July, 1894). Contains an article on "The Civil War Income Tax."

Code of Georgia, 1861, secs. 800, 801.

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